



# House of Representatives

## File No. 565

General Assembly

February Session, 2012

**(Reprint of File No. 80)**

Substitute House Bill No. 5241  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 20, 2012

### **AN ACT CONCERNING DELAYED BIRTH REGISTRATION.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 7-57 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

3 (a) Any adult or the parent or legal guardian [of the person] of any  
4 minor who is one year of age or older, for whose birth no certificate is  
5 on file, may [, with] request a delayed registration of birth by  
6 submitting to the department his or her affidavit and the affidavits of  
7 two other persons having first hand knowledge of the facts [, make,  
8 under oath, an affidavit as to the matters required to be set forth in a  
9 birth certificate under the provisions of section 7-48 and file the same  
10 in the office of the registrar of vital statistics of the town in which such  
11 birth occurred. Such registrar] relating to such birth, made under oath  
12 and in the manner and form prescribed by the commissioner. An  
13 adult, parent or legal guardian requesting a delayed registration of  
14 birth shall also submit to the department documentary evidence of the  
15 name, date and place of birth of the person for whom a delayed

16 registration of birth is requested. Such documentary evidence shall be  
17 sufficient to enable the department to determine that the birth did, in  
18 fact, occur on the date and at the place alleged by the adult, parent or  
19 legal guardian making the request. If the department determines that  
20 the evidence submitted is sufficient to determine the facts of the birth,  
21 the department shall [thereupon] prepare a birth certificate based upon  
22 the information contained in [such affidavit and file the same with  
23 such affidavit in the same manner as any other birth certificate,  
24 including filing] the affidavits and other documentary evidence  
25 submitted to the department. The department shall transmit a copy of  
26 such certificate [with the department] to the registrar of the town  
27 where the birth occurred and to the registrar of the town where the  
28 mother resided at the time of birth.

29 (b) If [unable to furnish an affidavit satisfactory to the registrar of  
30 such town] the department denies the request for a delayed  
31 registration of birth, such adult, [or] parent or legal guardian may  
32 [apply to] petition the court of probate for the district where such birth  
33 occurred for an order requiring [such registrar] the department to  
34 prepare a certificate of birth of such adult or such minor. [containing  
35 the matters so required to be set forth] The petitioner shall include  
36 with the petition the affidavits and other documentary evidence  
37 submitted to the department in accordance with subsection (a) of this  
38 section. Such court shall [, with or without notice and hearing,  
39 ascertain the facts as to the matters so required and issue an order  
40 directing such registrar to issue such a certificate based upon the facts  
41 set forth in such order. After issuing any such certificate, such registrar  
42 shall make a record of such birth, including in such record reference to  
43 such certificate and the affidavit or order of the court.] schedule a  
44 hearing and cause notice of the hearing to be given to the following  
45 persons: (1) The petitioner; (2) if the delayed registration of birth is  
46 sought for a minor, (A) the parent or legal guardian of the minor, and  
47 (B) if the minor is twelve years of age or older, the minor; (3) the  
48 commissioner; and (4) any such other person as the court may  
49 determine has an interest in the hearing. The commissioner or the

50 commissioner's authorized representative may appear and testify at  
51 such hearing. The petitioner shall have the burden of proving the facts  
52 of the birth. If the court finds by a preponderance of the evidence that  
53 the birth occurred on the date and at the place alleged by the  
54 petitioner, the court shall issue an order containing the person's name,  
55 sex, date of birth, place of birth and any other identifying information  
56 as the court deems appropriate and directing the department to issue a  
57 delayed birth certificate. Upon receipt of a certified copy of any such  
58 order, the department shall prepare a birth certificate based on the  
59 facts set forth in the court's order and transmit a copy of the certificate  
60 to the registrar of the town where the birth occurred and to the  
61 registrar of the town where the mother resided at the time of birth.

62 (c) In any proceeding under subsection (b) of this section, the court,  
63 on the motion of any party or on the court's own motion, may order  
64 genetic tests, which shall mean deoxyribonucleic acid tests, to be  
65 performed by a hospital, accredited laboratory, qualified physician or  
66 other qualified person designated by the court to determine parentage.  
67 The petitioner shall be responsible for the cost of any genetic test  
68 required by the court, except the department shall pay such cost for  
69 any petitioner who is found by the court to be indigent. If the results of  
70 such test indicate a ninety-nine per cent or greater probability that a  
71 person is the mother or father of the adult or minor for whom a  
72 delayed registration of birth is sought, the results shall constitute a  
73 rebuttable presumption that the person is, in fact, the mother or father  
74 of the adult or minor for whom a delayed registration of birth is  
75 sought.

76 (d) Birth certificates registered one year or more after the date of  
77 birth shall be marked "delayed" and indicate (1) the date of the delayed  
78 registration, [ The provisions of sections 7-42 and 7-73 shall apply to  
79 the acts of the registrar under this section] (2) the person's name, sex,  
80 date of birth, place of birth and any other identifying information  
81 prescribed by the commissioner, as such facts of the birth have been  
82 determined based upon the evidence presented to the department or  
83 stated in a court order, as the case may be, and (3) when the facts of the

84 birth are determined by court order, a statement that the birth is  
85 registered pursuant to court order.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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### ***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

### ***Explanation***

There is no fiscal impact to the Department of Public Health (DPH) associated with changes to the delayed birth registration process. Existing statute requires requests for delayed registration of birth to be filed with the town in which the birth occurred and for a copy of the birth certificate to be sent to DPH's Vital Records Office. The bill reverses this process, requiring initial filing with the Vital Records Office and a copy of the birth certificate to be sent to the appropriate town registrar. As DPH is currently involved in this process and there are a minimal number of delayed birth registrations, this bill is not anticipated to result in a fiscal impact to DPH.

House "A" struck language of the underlying bill and replaced it with similar language that did not result in a fiscal impact to the Department of Public Health (DPH).

### ***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

*Sources: Department of Public Health*

**OLR Bill Analysis****sHB 5241 (as amended by House "A")\******AN ACT CONCERNING DELAYED BIRTH REGISTRATION.*****SUMMARY:**

This bill changes the process for requesting a delayed birth certificate, which is a birth certificate that is registered a year or more after a birth. Among other things, the bill requires requests for delayed birth certificates to be filed with the Department of Public Health (DPH), rather than the town registrar of vital statistics. In addition to the affidavit required by current law, the bill requires the requesting person to submit documentary evidence in support of the facts of the birth.

The bill also makes changes affecting probate court proceedings brought when someone's request for a delayed birth certificate has been denied. For example, it specifically allows the court to order DNA testing in such matters, specifies who must pay for DNA testing, and creates a rebuttable presumption of parentage if the test shows a 99% or greater probability of parentage.

The bill requires DPH, rather than the town registrar, to prepare delayed birth certificates after such requests, including those prepared after a court order.

The bill also makes minor and technical changes.

\*House Amendment "A" (1) specifies who the probate court must notify about a hearing on a request for a delayed certificate; (2) allows the DPH commissioner or representative to testify at such hearings; (3) specifies who can conduct DNA tests under the bill, and creates the rebuttable presumption connected to such tests; (4) requires DPH,

rather than the town registrar, to issue delayed birth certificates following probate court orders; and (5) makes minor, technical, and clarifying changes to the underlying bill.

EFFECTIVE DATE: October 1, 2012

## **DELAYED BIRTH CERTIFICATES**

### ***Requests to DPH***

By law, any adult, or the guardian of a minor, without a birth certificate on file can request a delayed birth registration. The bill specifies that the procedures for requesting a delayed birth registration do not apply to birth certificates for minors less than one year old. It also makes a technical change by specifying that a minor's parent or legal guardian can make such a request.

The bill requires that requests for delayed birth certificates be submitted to DPH, rather than to the registrar of vital statistics for the town where the birth occurred. Under current law, someone seeking a delayed birth certificate must, along with two other people with knowledge of the facts, make an affidavit under oath as to the matters the law requires for birth certificates. The bill (1) specifies that the requesting person and the two other people with knowledge must complete separate affidavits, (2) requires that the two other people have first-hand knowledge of the facts relating to the birth, and (3) requires the affidavits to be in the manner and form the DPH commissioner prescribes.

The bill also requires the requesting person to submit to DPH documentary evidence of the name, date, and place of birth relating to the requested certificate. This evidence must be sufficient to allow DPH to determine that the birth occurred when and where the requesting person alleges it did.

Under the bill, if DPH determines that the evidence is sufficient to determine the facts of the birth, DPH must prepare a birth certificate based on the evidence and affidavits. DPH must then send a copy to

the registrars of the town (1) where the birth occurred and (2) where the minor's mother resided at the time of the birth. This conforms to existing law, which requires all birth certificates to be filed in the town where the birth occurred, and an authenticated copy to be sent to the town where the mother resided at the birth, if different.

By contrast, under current law, the registrar prepares a birth certificate based on the information in the affidavit, and files the birth certificate, along with the affidavit, in the same manner as other birth certificates, which includes filing a copy with DPH.

### ***Application to Probate Court***

Under current law, if the person requesting the delayed birth certificate is unable to provide an affidavit that the town registrar finds satisfactory, the person can apply to probate court for an order requiring the registrar to prepare such a birth certificate. The bill instead allows the requesting person to petition the probate court for an order requiring DPH to prepare the certificate if DPH denied the request to do so. The bill specifies that the petitioner must include with the petition the affidavits and documentary evidence submitted to DPH as part of the request.

Current law allows the court to decide such matters without notice and a hearing. The bill instead requires the court to schedule a hearing. It must notify the following people about the hearing:

1. the petitioner;
2. if the petitioner is seeking the delayed registration for a minor,  
(a) the minor's parent or legal guardian and (b) the minor himself or herself if the minor is at least 12 years old;
3. the DPH commissioner; and
4. anyone else the court determines has an interest in the hearing.

The bill allows the DPH commissioner or her authorized

representative to appear and testify at such hearings. It specifies that the person seeking the court order has the burden of proving the facts of the birth by a preponderance of the evidence.

In such proceedings under the bill, the court, on its own motion or that of a party, can order DNA tests. The tests must be performed by a hospital, accredited laboratory, qualified physician, or other person the court designates as qualified to determine parentage.

The petitioner must pay for any DNA test the court requires, unless the court finds the person to be indigent; in that case, DPH must pay for it.

Under the bill, if the DNA test shows at least a 99% probability that the person is the mother or father of the individual for whom the petitioner is seeking a delayed birth registration, there is a rebuttable presumption that the person is the mother or father.

Under the bill, if the court finds that the birth occurred when and where the petitioner alleges it did, the court must issue an order (1) containing the person's name, sex, date and place of birth, and any other identifying information the court deems appropriate and (2) directing DPH to issue a delayed birth certificate. After receiving a certified copy of such an order, DPH must prepare a birth certificate based on the facts set forth in the order. DPH must also send a copy of the certificate to the registrars of the town (1) where the birth occurred and (2) where the mother resided at the time of the birth.

By contrast, under current law, the town registrar, rather than DPH, issues a delayed birth certificate following such a court order.

### ***Contents of Delayed Birth Certificates***

By law, delayed birth certificates must indicate the date of the delayed registration. Current law also requires the record of birth to refer to the certificate and the affidavit or court order. The bill instead requires delayed birth certificates to indicate:

1. the person's name, sex, date and place of birth, and any other identifying information the DPH commissioner prescribes, as such facts have been determined based on the evidence presented to DPH or stated in a court order and
2. when a court order determined the facts of birth, a statement that the birth is registered pursuant to court order.

**COMMITTEE ACTION**

## Public Health Committee

Joint Favorable

Yea 25 Nay 0 (03/09/2012)

## Judiciary Committee

Joint Favorable

Yea 40 Nay 0 (04/17/2012)